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48276

7590

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/777,722
Filing Date: February 05, 2001
Appellant(s): WIRAM, GORDON MICHAEL

Richard E. Oney
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/16/2008
appealing from the Office action mailed 10/24/2006.

Art Unit: 3600

(1) Related Appeals and Interferences

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,875,433 Francisco et al. 2-1999

Wiram, G. M. "Declaration Under 37 C.F.R. 1.132 In Response to July 13, 2004 Office Action"

Anonymous, Budget System

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3600

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-20, and 22-29 are rejected under 35 U.S.C.

103(a) as being unpatentable over the U-Haul reservation system prior to 5-Feb-2000 in view of Francisco et al (5,875,433).

Prior to 5-Feb-2000, a PC based Point of Sale system was in use by U-Haul and certain U-Haul dealers. The system was implemented on personal computers and/or computer networks. The system comprised software (inherently embedded on a tangible medium) to provide a number of system software features. This PC-based system included a rental feature having a customer information section and a payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit card section. The PC-based system further included a transfer feature having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section having a marketing message relating to the moving equipment rental business. In addition, the Pc-based system included a

Art Unit: 3600

customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement.

The system of U-Haul was not operatively connected to the internet so as to be capable of communicating. Francisco shows connecting a point of sale system to the internet via a server. It would have been obvious to one of ordinary skill in the art to modify the apparatus of U-Haul by connecting the POS system to the internet in order to provide for automated tax reporting to the relevant tax authority.

As to claims 6, 7, 23 and 24, U-Haul in view of Francisco et al show all elements except that the closing report shows a contract number, method of payment, amount received and an amount refunded for all transactions for a specified day. However, the examiner takes official notice that it is notoriously old and well known in the art to include such information on a closing report. It would have been obvious to one of ordinary skill in the art to do so in order to fully characterize the transactions occurring during that day.

Art Unit: 3600

As to claim 14, U-Haul in view of Francisco et al show all elements except displaying a rental rate. However, the examiner takes official notice that to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of U-Haul by having it display the rental rate for equipment in order to provide the customer with information needed in making a rental decision.

As to claims 16 and 17, U-Haul in view of Francisco et al show all elements except the rental agreement including the rental terms of the transaction and an itemized list of charges. However, the examiner takes official notice that it is notoriously old and well known in the art to provide this information on a rental agreement. It would have been obvious to one of ordinary skill in the art to provide this information in order to avoid later conflicts and to provide the customer with notice of the terms of the agreement.

Claims 4 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U-Haul in view of Francisco et al as applied to claims 2 and 19 above, and further in view of the Budget reservation system.

Art Unit: 3600

U-Haul in view of the well known art shows all elements except the return feature. The system of Budget shows this feature. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of U-Haul by using the rental return feature of Budget in order to facilitate easy recall of data and return of equipment.

Claims 31, 32, and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U-Haul reservation system prior to 5-Feb-2000.

Prior to 5-Feb-2000, a PC based Point of Sale system was in use by U-Haul and certain U-Haul dealers. The system was implemented on personal computers and/or computer networks. This PC-based system included a rental feature having a customer information section and a payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit card section. The PC-based system further included a transfer feature having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section

Art Unit: 3600

having a marketing message relating to the moving equipment rental business. In addition, the Pc-based system included a customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement.

The system of U-Haul does not show that these software features are part of a server. However, the examiner takes official notice that it is notoriously old and well known in the art to port a standalone software package to a server for use in a client - server architecture (for example several stand alone income tax preparation programs have been placed on servers and made available via the internet). It would have been obvious to one of ordinary skill in the art to modify the apparatus of U-Haul by placing the functionalities on a server in order to ease software updates to the system.

As to claims 35 and 36, U-Haul in shows all elements except that the closing report shows a contract number, method of payment, amount received and an amount refunded for all transactions for a specified day. However, the examiner takes official notice that it is notoriously old and well known in the art to include such information on a closing report. It would

Art Unit: 3600

have been obvious to one of ordinary skill in the art to do so in order to fully characterize the transactions occurring during that day.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over U-Haul as applied to claim 31 above, and further in view of the Budget reservation system.

U-Haul shows all elements except the return feature. The system of Budget shows this feature. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of U-Haul by using the rental return feature of Budget in order to facilitate easy recall of data and return of equipment.

It is noted that claim 42 is interpreted as reciting a client browser having the functionalities of the rental feature and the payment section (i.e., reciting a "fat" client).

Claims 42, 43, and 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U-Haul reservation system prior to 5-Feb-2000.

Prior to 5-Feb-2000, a PC based Point of Sale system was in use by U-Haul and certain U-Haul dealers. The system was

Art Unit: 3600

implemented on personal computers and/or computer networks. This PC-based system included a rental feature having a customer information section and a payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit card section. The PC-based system further included a transfer feature having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section having a marketing message relating to the moving equipment rental business. In addition, the Pc-based system included a customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement.

The system of U-Haul does not show that these software features are resident in the client browser. However, the examiner takes official notice that it is notoriously old and well known in the art to provide the software functionalities associated with a standalone system in a "fat" client having a browser interface. It would have been obvious to one of

Art Unit: 3600

ordinary skill in the art to do so in order to facilitate access to remote shared databases while minimizing the load on the server.

As to claims 46 and 47, U-Haul in shows all elements except that the closing report shows a contract number, method of payment, amount received and an amount refunded for all transactions for a specified day. However, the examiner takes official notice that it is notoriously old and well known in the art to include such information on a closing report. It would have been obvious to one of ordinary skill in the art to do so in order to fully characterize the transactions occurring during that day.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over U-Haul as applied to claim 42 above, and further in view of the Budget reservation system.

U-Haul shows all elements except the return feature. The system of Budget shows this feature. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of U-Haul by using the rental return feature of Budget in order to facilitate easy recall of data and return of equipment.

(10) Response to Argument

1 and 2: Applicable Law and The Subject Matter of Claims 1-3, 5-20, and 22-29 Is Not Obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System in View of Francisco et al.

A. The cited Reference Do Not Disclose or Suggest All of the elements of the claims.

The appellant argues that nothing in the U-Haul PC Based System or Francisco et al. teaches or suggests "utilizing the Internet to communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals". The examiner disagrees.

The examiner notes he has relied on the U-Haul PC based System as noted by the "Declaration Under 37 C.F.R. 1.132 In Response to July 13, 2004 Office Action" to teach the following PC based Point of Sale system was in use by U-Haul and certain U-Haul dealers. The system was implemented on personal computers and/or computer networks. The system comprised software (inherently embedded on a tangible medium) to provide a number of system software features. This PC-based system included a rental feature having a customer information section and a

Art Unit: 3600

payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit card section. The PC-based system further included a transfer feature having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section having a marketing message relating to the moving equipment rental business. In addition, the Pc-based system included a customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement. The examiner notes under the broadest reasonable interpretation U-Haul PC based System teaches a retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals. The examiner has noted in the Office Action dated on 10/24/2006 the examiner noted that the U-Haul PC based system failed to teach being operatively connected to the internet so as to be capable of communicating information. The examiner teachings of Francisco et al. to teach connecting a point of sale

Art Unit: 3600

system/Retailer Register (col. 6, lines 7-11) to the internet via a server (col. 6, lines 7-11: the examiner notes computer "13") to communicate information. The examiner notes under the broadest reasonable interpretation a smart tax register located at a retailer location acts as a terminal (see at least, col.5, lines 52-65) which is capable of communicating information over a network (see at least, col. 6, lines 7-21) and further the network would comprise of multiple forms of connectivity (e.g. phone lines, T1, fiber optic, etc) which comprise the Internet (see at least, col. 10, lines 45-52). Under the broadest reasonable interpretation the examiner notes Francisco et al. teaches the ability to connect a terminal to the Internet to communicate information. The examiner notes one of ordinary skill in the art would have been motivated to combine the teachings, due to the fact that in one field on endeavor may prompt variations of it for use in either the same field based on design incentives. The examiner notes connecting to the internet would be a design incentive to combine the Internet to the teachings of the U-Haul PC based system, for the connecting a system to the internet to provide reporting (see motivation of Office Action mailed on 10/24/2006). The examiner notes under the broadest reasonable interpretation the combination of U-Haul PC based system in view of Francisco et al. teaches utilizing

Art Unit: 3600

the Internet to communicate to (from Francisco) or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals (from U-Haul PC Based System. Therefore this argument is not persuasive.

B. The Record Includes Clear and Convincing Evidence of Secondary Considerations Showing Non-Obviousness.

The examiner has noted in the Office Action that the 37 CFR 1.32 Declaration was considered but was deemed to have little evidentiary value since they are the opinions of an individual with an interest in the claimed invention. Further the examiner has noted in the response above why it would have been obvious to combine the teachings of the U-Haul PC based system with the teachings of Francisco et al. The examiner notes one of ordinary skill in the art would have been motivated to combine the teachings, due to the fact that in one field or endeavor may prompt variations of it for use in either the same field based on design incentives. The examiner notes connecting to the internet would be a design incentive to combine the Internet to the teachings of the U-Haul PC based system, for the connecting a system to the internet to provide reporting (see motivation of

Art Unit: 3600

Office Action mailed on 10/24/2006). Therefore this argument is not persuasive.

3: The Subject Matter of Claims 31-41 Is Not Obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System.

The appellant argues that nothing in the U-Haul PC Based System teaches or suggests "utilizing the Internet to communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals". The examiner disagrees.

The examiner notes the Official Notice has not been traversed in the response dated on 01/13/2005. Therefore the examiner has admitted them as known elements the "client-server architecture" were admitted to be prior art (which would include Internet connectivity).

The examiner notes he has relied on the U-Haul PC based System as noted by the "Declaration Under 37 C.F.R. 1.132 In Response to July 13, 2004 Office Action" to teach the following PC based Point of Sale system was in use by U-Haul and certain U-Haul dealers. The system was implemented on personal computers and/or computer networks. The system comprised software

Art Unit: 3600

(inherently embedded on a tangible medium) to provide a number of system software features. This PC-based system included a rental feature having a customer information section and a payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit card section. The PC-based system further included a transfer feature having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section having a marketing message relating to the moving equipment rental business. In addition, the Pc-based system included a customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement. The examiner notes under the broadest reasonable interpretation U-Haul PC based System teaches a retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals.

The examiner has noted in the Office Action dated on 10/24/2006 the examiner noted that the U-Haul PC based system

Art Unit: 3600

failed to teach being operatively connected to the internet so as to be capable of communicating information.

The examiner has taken official notice for connectivity to the based a client-server architecture.

The examiner notes the teachings of Francisco et al. to show the Official Notice was taken correctly for limitation to be known in the prior art. Francisco et al. teaches connecting a point of sale system/Retailer Register (e.g. client) (col. 6, lines 7-11) to the Internet via a server (col. 6, lines 7-11: the examiner notes computer "13") to communicate information (see at least, abstract and col. 3, lines 35-36, col. 9, lines 46-col. 10, line 26 and FIG. 6). The examiner notes under the broadest reasonable interpretation a smart tax register located at a retailer location acts as a terminal (see at least, col.5, lines 52-65) which is capable of communicating information over a network (see at least, col. 6, lines 7-21) and further the network would comprise of multiple forms of connectivity (e.g. phone lines, T1, fiber optic, etc) which comprise the Internet (see at least, col. 10, lines 45-52).

Under the broadest reasonable interpretation the examiner notes Examiner's Official notice provided by evidence from Francisco et al. teaches the ability to connect a terminal to the Internet to communicate information. The examiner notes one

Art Unit: 3600

of ordinary skill in the art would have been motivated to combine the teachings, due to the fact that in one field on endeavor may prompt variations of it for use in either the same field based on design incentives. The examiner notes connecting to the internet would be a design incentive to combine the Internet to the teachings of the U-Haul PC based system, for the connecting a system to the internet to provide reporting (see motivation of Office Action mailed on 10/24/2006). The examiner notes under the broadest reasonable interpretation the combination of U-Haul PC based system in view of Examiner's Official notice provided by evidence from Francisco et al. teaches utilizing the Internet to communicate to (from Francisco) or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals (from U-Haul PC Based System. Therefore this argument is not persuasive.

4: The Subject Matter of Claims 42-521 Is Not Obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System.

The appellant argues that nothing in the U-Haul PC Based System teaches or suggests "utilizing the Internet to

Art Unit: 3600

communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals". The examiner disagrees.

The examiner notes limitations of claims 42-52 do not rely on the term Internet.

The examiner notes the Official Notice has not been traversed in the response dated on 01/13/2005. Therefore the examiner has admitted them as known elements the ""fat" client architecture" were admitted to be prior art (which would include Internet connectivity).

The examiner notes he has relied on the U-Haul PC based System as noted by the "Declaration Under 37 C.F.R. 1.132 In Response to July 13, 2004 Office Action" to teach the following PC based Point of Sale system was in use by U-Haul and certain U-Haul dealers. The system was implemented on personal computers and/or computer networks. The system comprised software (inherently embedded on a tangible medium) to provide a number of system software features. This PC-based system included a rental feature having a customer information section and a payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit

Art Unit: 3600

card section. The PC-based system further included a transfer feature having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section having a marketing message relating to the moving equipment rental business. In addition, the PC-based system included a customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement. The examiner notes under the broadest reasonable interpretation U-Haul PC based System teaches a retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals. The examiner has noted in the Office Action dated on 10/24/2006 the examiner noted that the U-Haul PC based system failed to teach being operatively connected to the internet so as to be capable of communicating information.

The examiner has taken official notice for connectivity to the based "fat" client architecture.

The examiner notes the teachings of Francisco et al. to show the Official Notice was taken correctly for limitation to

Art Unit: 3600

be known in the prior art. Francisco et al. to teach connecting a point of sale system/Retailer Register (e.g. client architecture) (col. 6, lines 7-11) to the Internet via a server (col. 6, lines 7-11: the examiner notes computer "13") to communicate information (see at least, abstract and col. 3, lines 35-36, col. 9, lines 46-col. 10, line 26 and FIG. 6). The examiner notes under the broadest reasonable interpretation a smart tax register located at a retailer location acts as a terminal (see at least, col.5, lines 52-65) which is capable of communicating information over a network (see at least, col. 6, lines 7-21) and further the network would comprise of multiple forms of connectivity (e.g. phone lines, T1, fiber optic, etc) which comprise the Internet (see at least, col. 10, lines 45-52).

Under the broadest reasonable interpretation the examiner notes Examiner's Official notice provided by evidence from Francisco et al. teaches the ability to connect a terminal to the Internet to communicate information. The examiner notes one of ordinary skill in the art would have been motivated to combine the teachings, due to the fact that in one field on endeavor may prompt variations of it for use in either the same field based on design incentives. The examiner notes connecting to the internet would be a design incentive to combine the

Art Unit: 3600

Internet to the teachings of the U-Haul PC based system, for the connecting a system to the internet to provide reporting (see motivation of Office Action mailed on 10/24/2006). The examiner notes under the broadest reasonable interpretation the combination of U-Haul PC based system in view of Examiner's Official notice provided by evidence from Francisco et al. teaches utilizing the Internet to communicate to (from Francisco) or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals (from U-Haul PC Based System. Therefore this argument is not persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3600

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Asfand M Sheikh/

Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

Vincent Millin /VM/

Appeals Practice Specialist